

MEMORANDUM FOR: Office of Legislative Counsel

FROM : F. W. M. Janney
Director of Personnel

SUBJECT : H.R. 5544

REFERENCE : OLC informal note for DD/Pers dtd 27 Jul 77
re H.R. 5544

1. We have reviewed H.R. 5544 which provides a limit on and requires certain advance coordination in the Congress of positions which may be placed in the GS-16, GS-17 and GS-18 grade levels.

2. Our review of the Bill would indicate the Director's authority to establish and fix the rates of pay for supergrade positions remains unchanged. H.R. 5544 applies only to government departments that meet the definition of "agency" in Title 5, Chapter 5102, in which CIA is expressly excluded. We do not read Section 2(a)(2) of H.R. 5544 (lines 4 through 8 on page 3) as changing this exclusion, nor do we read lines 20-25, page 3 as changing our authorities with regard to scientific or professional positions outside the General Schedule.

3. Because of the exclusion in Title 5, Chapter 5102, the Agency has never relied on Chapter 5108 for the authority to establish supergrade or SPS positions. The control on these positions is exercised by the Office of Management and Budget through the annual review of our budget submissions.

4. While the above is our opinion there remains some uncertainty regarding the meaning or intended meaning of lines 4-8 on page 3 of the Bill. We suggest, therefore, that OGC be asked to provide a legal opinion regarding those lines and advise specifically whether or not the Agency is included within the intent of H.R. 5544. If it is determined that the Agency is included we will review the Bill again and prepare a second statement based on that determination.

(Signed) F. W. M. Janney

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Page 2 This repeals special authorities given certain Agencies to establish
line 25;
Page 3 a specified number of GS-16-18 positions above the CSC general allotment.
lines 1,
2, 3 CIA is not included among those Agencies.

Page 3 This repeals the listing of those Agencies included and excluded
lines
4-8 "for the purpose of this chapter", which purpose is "Classification of
positions". CIA is listed in this section under "but does not include".

Page 3 This amendment increases the aggregate from 2754 to 5915 and eliminates
lines 9-
19 reference to the aggregate being "in addition to" certain engineering,
physical and medical science etc. positions.

Page 3 This terminates the authority to establish certain positions in
lines 20-
25 *Scientific & Technical Positions*
outside the General Schedule
[addition to the aggregate number of 5915.] In fact this terminates in
written text that which was terminated by omission in the amendment
recorded in lines 9-19 and discussed above.

Page 4 This removes from the heads of the listed Agencies authority to
lines 1-
11 establish certain numbers of scientific or professional positions. The
authority to establish those positions is given to, "a majority of the
Civil Service Commissioners" who are restricted to establishing "not
to exceed 1238", such positions.